

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

December 21, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Sacramento Bee, on December 18, 1999, published the response to their editorial "Computer Nerds Needed" prepared by the State Personnel Board and the Department of Personnel Administration.
- B. The State Personnel Board was informed by the Department of Finance that the administration has decided not to support funding for State Personnel Board recruitment and outreach activities at this time.
- C. State Personnel Board staff continues to work with the Governor's Task Force on Outreach and Diversity. The task force's initial report to the Governor has been released and will be provided to the Board.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Legal News

- A. Carrisales v. Department of Corrections - The California Supreme Court has issued a decision finding that a co-worker cannot be found individually liable under the Fair Employment and Housing Act for sexual harassment against another employee.

Litigation

- A. Jesse Brown v. State Personnel - A Superior Court has overturned the State Personnel Board's precedential decision in this case (SPB Dec. No. 99-02), finding that the appellant was entitled to a pre-termination hearing. SB 1073, enacted this year, will moot out most of the questions raised by this decision.
- B. Association of California State Attorneys and Administrative Law Judges (ACSA) v. Department of Personnel Administration (DPA) - No word as yet from the Superior Court. We expect a decision by December 22, 1999.

Other

- A. Public Employment Retirement System (PERS) Task Force on Disability Issues - We are a part of this task force which has met twice to discuss medical issues under the jurisdiction of PERS, State Personnel Board, Worker's Compensation Appeals Board, Department of Fair Employment and Housing and others and the inter-relationship between these laws.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. State Personnel Board Executive Office staff met with the consultant to the Joint Legislative Audit Committee to discuss the Bilingual Services Act audit and the recommendations suggested by the Auditor General. The State Personnel Board is in agreement with the recommendations and will through, legislation and the

budget change proposal process implement those recommendations.

- B. Meetings are being scheduled with Union representatives to allow Mr. Harrigan the opportunity to meet and share his goals and ideas as a new Board member with them.
- C. The Legislature will reconvene January 3, 2000.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF DECEMBER 7-8, 1999

ACTION: Adopted on December 21, 1999.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On December 21, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye; Bos Recused herself on Proposed Decision No. 99-1677, Ernest Delgado.

REJECTED AND REMANDED DECISION

MARY CATHERINE GRAY, CASE NO. 99-0578 (PREC DEC NO. 99-08)
Appeal from dismissal

Department of Corrections

ACTION: Proposed Decision on Remand Adopted

PROPOSED DECISIONS

GRACE CHIN, CASE NO. 99-2920

Appeal from dismissal

Department of Health Services

ACTION: Dismissal Revoked

DOLORES DEVINE, CASE NO. 99-3186

Appeal from dismissal

Department of Motor Vehicles

ACTION: Dismissal Sustained

CORA LEE HOBBS, CASE No. 99-0030
Appeal from 5 percent reduction in Salary for 6 months
Department of Mental Health
ACTION: Reduction in Salary Modified to 5 Percent for 1 Month

RAMONA RAYMUNDO, CASE NO. 99-2617
Appeal from constructive medical termination
Department of Developmental Services
ACTION: Appeal Dismissed

DEBORAH S. HARRIS, CAE NO. 99-3712
Appeal from termination with cause
Department of Parks and Recreation
ACTION: Request to Remove "with Cause" Designation from Termination Denied

DONALD K. BARCY, CASE NO. 99-3212
Appeal from dismissal
Department of corrections
ACTION: Dismissal Modified to a 6-Month Suspension

DARREN F. EVANS, CASE NO. 99-3428
Appeal from 12 month Administrative
Department of California Highway Patrol
ACTION: Administrative Reassignment Sustained

ERNEST DELGADO, CASE NO. 99-1677
Appeal from 10 working days suspension
Department of California Highway Patrol
ACTION: Suspension Revoked

JOHN MEDEIROS, CASE NO. 99-0090
Appeal from 90 days suspension
Department of Corrections
ACTION: Suspension Sustained

THOMAS GSCHWEND, CASE NO. 99-1424
Appeal from 60 working days suspension
Department of Corrections
ACTION: Suspension Modified to 30 Calendar Days Suspension

DELORES D. BOUTIN, CASE NO. 99-1578
Appeal from official reprimand
Department of Corrections
ACTION: Official Reprimand Sustained

MICHAEL BRADLEY, CASE NO. 99-3187

Appeal from reinstatement after automatic resignation
California State University, Long Beach

ACTION: Administrative Law Judge's Proposed Decision
Rejected by Board. Board to Decide Case Itself

LUIZ D. GUTIERREZ, CASE NO. 97-5000

Appeal from 10 percent reduction in Salary for 2 years
Department of Water Resources

ACTION: 10 Per Cent Reduction for 2 Years to 10 Percent for
1-Year Modified

DAVID NUNEZ, CASE NO. 98-3145

Appeal from 5 percent reduction in Salary for 6 months
Department of corrections

ACTION: Board Adopted Findings of Fact, but Modified
Reduction in Salary to Official Reprimand

KATHRYN A. ZIELESCH, CASE NO. 97-1033

Discrimination complaint

Department of Forestry and Fire Protection

ACTION: Administrative Law Judge's Proposed Decision
Rejected by Board. Board to Decide Case Itself

RAQUEL PARKER, CASE NO. 99-1260

Appeal from rejection

Department of Transportation

ACTION: Affirming Rejection Affirmed and Appeal Denied

SHARON COLE, CASE NO. 99-2488

Appeal from 1 working day suspension

Department of Social Services

ACTION: Suspension Sustained

ALLEN TRIGG, CASE NO. 99-2696

Appeal from 3 working days suspension

Sonoma State University

ACTION: Suspension Revoked

VALVIA JEFFERSON, CASE NO. 99-2987

Appeal from 30-calendar day's suspension

Department of Corrections

ACTION: Suspension Sustained

ANTONIO JAMES, CASE NO. 99-0207
Appeal from 2-step reduction in salary for 6 months
State Compensation Insurance Fund
ACTION: Reduction in Salary Modified to 2 Steps for 3
Months

PETITION FOR REHEARING

ROBERT W. SMITH, CASE NO. 99-1553
Appeal from dismissal
Department of Justice
ACTION: Petition for Rehearing Filed by Appellant Granted
and Remanded for Hearing on Merits

COLE WOEMPNER, CASE NO. 98-5059
Appeal from dismissal
Department of Parks and Recreation
ACTION: Petition for Rehearing Filed by Appellant Denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION. (See pages 14-17)
8. MISCELLANEOUS APPEALS DIVISION CASES
On December 21, 1999, the Board adopted the following
decisions presented by Linda Brooks, Assistant Executive
Officer, California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

DISCRIMINATION AND RETALIATION

- A. EMIL BELKO, Case No. 97-1952
Classification: Senior Radiologic Technologist
ACTION: DENIED the Discrimination Complaint and
AFFIRMED the Retaliation Complaint

PETITION FOR REHEARING

- B. MICHELE EASTER, Case No. 99-4286
Classification: Youth Correctional Officer
ACTION: DENIED

WITHHOLD CASE

- C. CHERYL A. DORSEY, Case No. 98-5220
Classification: Correctional Officer
ACTION: DENIED
- D. WILLIAM RADER, Case No. 99-0821
Classification: Correctional Officer
ACTION: GRANTED
- E. JUSTIN WELTER, Case No. 98-3885
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- F. REVENDRA GIR, Case No. 99-3041
Classification: Correctional Officer
ACTION: GRANTED
- G. ENRICO ARQUISOLA, Case No. 99-4380
Classification: Associate Information Systems Analyst
ACTION: DENIED
- H. CHERYL BEARDO, Case No. 99-2967
ACTION: DENIED
- I. GEORGE BORRAS, Case No. 99-4290
Classification: Associate Information Systems Analyst
ACTION: DENIED
- J. SCOTT CRULL, Case No. 99-1237
Classification: Environmental Planner (Archeology)
ACTION: DENIED
- K. DANIEL A. EVANS, Case No. 99-3090
Classification: Correctional Officer
ACTION: DENIED
- L. BRYANT E. FIELDS, Case No. 99-2832
Classification: Correctional Officer
ACTION: DENIED
- M. ELLIOTT J. FRANKS; Case No. 99-2958
Classification: Correctional Officer
ACTION: DENIED
- N. SAMUEL JAWILI, Case No. 99-3158
Classification: Correctional Officer
ACTION: DENIED

- O. BRICE KUZANEK, Case No. 99-3107
Classification: Correctional Officer
ACTION: DENIED
- P. LUIS T. MARTINEZ - CASE #99-3094
Classification: Correctional Officer
ACTION: DENIED
- Q. JUDSON T. MASTERS, Case No. 99-2840
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- R. EULALIO J. MERAZ, Case No. 99-3095
Classification: Correctional Officer
ACTION: DENIED
- S. RYAN PETTIGREW, Case No. 99-3315
Classification: Correctional Officer
ACTION: DENIED
- T. DAVID FILEMON RODRIQUEZ, Case No. 99-3755
Classification: Correctional Officer
ACTION: DENIED
- U. JAMES A. RUSSELL, JR., Case No. 99-2836
Classification: Correctional Officer
ACTION: DENIED
- V. ALDOLFO VALENZUELA Case No. 99-3035
Classification: Correctional Officer
ACTION: DENIED
- W. BRADFORD WELSER, Case No. 99-3156
Classification: Youth Correctional Officer
ACTION: DENIED
- X. DAVID WOODSON; Case No. 99-2961
Classification: Correctional Officer
ACTION: DENIED
- Y . EDGAR L. ZEIGLER, Case No. 99-3312
Classification: Correctional Officer
ACTION: DENIED

DISMISSAL CASE

- Z. MICHAEL F. WALKER, Case No. 99-4744
Classification: Correctional Officer
ACTION: DISMISSED - Department withdrew action.

9. MEDICAL APPEALS

On December 21, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. SUSAN NAEGELI, Case 99-0535
Classification: Licensing Program Analyst
ACTION: DENIED
- B. ABIGAIL GLUCK, Case No. 99-3851
Classification: Psychiatric Technician Trainee
ACTION: GRANTED
- C. DAVID BARAJAS, Case No. 99-4726
Classification: Correctional Officer
ACTION: GRANTED
- D. JOHN LEATHERMAN, Case No. 99-4728
Classification: Correctional Officer
ACTION: GRANTED
- E. MICHAEL MURDOCK, Case No. 99-4517
Classification: Correctional Officer
ACTION: GRANTED
- F. WILLIAM NEWBORG, Case No. 99-4518
Classification: Correctional Officer
ACTION: GRANTED

DISMISSED CASE

- G. JAMES U. COLLINS, Case No. 99-3309
Classification: Parole Agent I
ACTION: DISMISSED

10. EXAMINATION APPEALS

On December 21, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. CHRISTOPHER BUCKLEY, Case No. 99-0613
Final Filing Date: October 2, 1998

Examination: Supplemental Application,
Competitive Qualifications Form and Written Test
Class: Parole Agent I, Adult Parole
Testing Agency: Department of Corrections
Appeal Received: February 18, 1999
ACTION: GRANTED

B. TERRY GRIMM, Case No. 98-3925

Final Filing Date: August 7, 1998
Examination: Promotional Readiness
Assessment Process
Class: Staff Services Manager I
Testing Agency: Employment Development
Department
Appeal Received: September 28, 1998
ACTION: GRANTED

C. LIDA TAN, Case No. 99-1018

Final Filing Date: October 16, 1998
Examination: Qualification Appraisal
Interview
Class: Environmental Specialist II III
Testing Agency: California Water Board
Appeal Received: March 23, 1999
ACTION: DENIED

D. LIDA TAN, Case No. 98-1222

Final Filing Date: None
Examination: Supplemental Application
Class: Environmental Specialist II III
Testing Agency: California Water Board
Appeal Received: April 7, 1998
ACTION: DENIED

E. MAC ASKARI

Case No. 99-0185
Final Filing Date: November 5, 1998
Examination: Qualification Appraisal
Class: Correctional Business Manager II
Testing Agency: Department of Correction
Appeal Received: January 19, 1999
ACTION: GRANTED

11. NON-HEARING CALENDAR

On December 21, 1999, the Board adopted items A-F. These items were presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. FORESTRY PILOT (HELICOPTER)
FORESTRY FIRE PILOT
The Department of Forestry and Fire Protection proposes to retitle the class of Forestry Pilot (Helicopter) to Forestry Fire Pilot.
 - B. DRIVER SAFETY MANAGER SERIES
The Department of Motor Vehicles proposes to revise the series specification for the Driver Safety Manager classifications to accurately reflect current use of classes.
 - C. AVILA BEACH FIRE DEPARTMENT EMPLOYEES
The Department of Forestry and Fire Protection requests that the Avila Beach Fire Department employees be blanketed into state civil service under the provisions of State Personnel Rule 275.
 - D. ENERGY AND MINERAL RESOURCES ENGINEER
The Department of Conservation proposes to revise the specification for the class of Energy and Mineral Resources Engineer; add a Range C to the deep class; and establish alternate Range Criteria 419.
 - E. INVESTIGATOR, DEPARTMENT OF MOTOR VEHICLES (DMV) SERIES
The Department of Motor Vehicles (DMV) proposes the establishment of a new classification series Investigator, DMV; establishment of a 12-month probationary period for each class in the series; establishment of Alternate Range Criteria 420; and reallocation of incumbents.
 - F. PERMIT ASSISTANCE CENTER DIRECTOR
The Office of the Secretary, Cal/EPA proposes to establish the class of Permit Assistance Center Director; establishment of a 12-month probationary period.
12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY
- A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION
 - (1) PROJECT DIRECTOR, CALIFORNIA CHILD SUPPORT AUTOMATED SYSTEMS
The Franchise Tax Board proposes that the above position be allocated to the CEA category. The Department indicates that the position reports to the Executive Officer and will be responsible for

the establishment of a single statewide automated child support system to improve child support operations and enforcement.

- (2) DEPUTY DIRECTOR, PROGRAM MANAGEMENT DIVISION
The California Children and Families Commission proposes that the above position be allocated to the CEA category. The Department indicates that the position reports to the Executive Director and the Chief Deputy Director will be responsible for administering the Program Management Division and for establishing and implementing policy for program development addressing the needs of families with children in regards to health, education, parenting and child care issues.
- (3) DEPUTY EXECUTIVE OFFICER, FINANCE AND OPERATIONS
The Coastal Conservancy proposes that the above position be allocated to the CEA category. The Department indicates that the position reports to the Executive Officer and will be responsible for the overall management and oversight of all fiscal and operational functions and will be involved in all departmental policy decisions.

ACTION: Noted

13. WRITTEN STAFF REPORT FOR BOARD INFORMATION

A. AUDIT RECOMMENDATION IMPLEMENTATION REPORT

ACTION: Report presented

A D J O U R N M E N T

SUBMITTED

1. ANDY G. INGERSOLL, CASE NO. 98-3517. Appeal from denial of reasonable accommodation, discrimination based on disability, and constructive medical suspension. Department of Transportation. (Oral argument held November 2, 1999.)

NO ACTION

2. DUANE WILES, CASE NO. 98-4304. Appeal from dismissal. Department of Transportation. (Oral argument held November 2, 1999.)

NO ACTION

3. CHARLES YOUNGLOVE, CASE NO. 97-3901. Appeal from demotion. Department of Insurance. (Oral argument held December 7, 1999.)

NO ACTION

4. TERESA DESIDERIO, CASE NO. 99-2020. Appeal from discrimination. Department of Corrections. (Oral argument held December 7, 1999.)

NO ACTION

5. MICHAEL SANCHEZ, CASE NO. 99-1194. Appeal from non-punitive termination. Department of Corrections. (Oral argument held December 7, 1999.)

NO ACTION

6. JURELENE SCRUGGS, CASE NO. 99-0591. Appeal from 30 days suspension. California State University, Fresno. (Oral argument held December 7, 1999.)

NO ACTION

7. SAMUEL ROY, CASE NO. 99-1196. Appeal from non-punitive termination. Department of Mental Health. (Oral argument held December 7, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on December 21, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.